

**Testimony of Congressman Joe Donnelly on
H.R. 1490, *The Fairness in Veterans Disability Benefits Act***

**House Veterans' Affairs Subcommittee on
Disability Assistance and Memorial Affairs**

April 17, 2007

Chairman Hall and Ranking Member Lamborn, thank you for calling this legislative hearing today, and I thank you for this opportunity to speak on the need for new approaches to both address the claims backlog and also help America's veterans cope with what is frequently a months-long process to get the benefits they deserve.

The problem is well documented. We have a benefits system in place that is struggling to keep up with a growing load of disability claims cases. Right now, a veteran filing a new claim can expect an almost six month wait until they find out whether their claim is approved by the VA. If they appeal the VA's determination, they can expect their case to drag on for nearly two more years.

Unfortunately, this is a problem that is likely to get worse before it gets better. As you know, in the Iraq and Afghanistan conflicts, the ratio of soldiers wounded to killed is 16 to 1, the highest of any war in our nation's history. With so many new and future veterans serving in Iraq and Afghanistan, we have a bow wave of new claims we must prepare for, in addition to the 180,000 Iraq and Afghanistan veterans who have already applied for disability benefits. Harvard University professor Linda Bilmes, who testified before this Subcommittee last month, estimates that over the next five years OEF and OIF veterans could file 638,000 new claims for benefits.

I genuinely believe that the VA is trying to do the best it can under the current system. VBA claims workers are dedicated individuals who are working hard to see that our veterans are able to get the proper service and benefits deserving their service and sacrifice to our nation. I look forward to working with my fellow colleagues on the Veterans' Affairs Committee to make sure the VBA has the resources and staff in place to provide for accurate and timely claims adjudication. I also look forward to working with the VA and the Department of Defense to provide for a seamless transition from active duty to veteran status.

However, I also believe we must explore more innovative approaches to address the fundamental shortcomings of the current claims process.

Mr. Chairman, as you know, new veterans often leave the service to an uncertain future. Sometimes, just weeks removed from the battlefield, they must find a job, a place to live and identify how they will get the medical care they need. Many older veterans are on

fixed incomes. For many disabled veterans, their benefits and disability compensation are an important part of their ability to meet the needs of their families and make ends meet. It is our veterans who pay the price—both emotional and financial—for the long time it takes to process a claim.

I know there are a number of factors to explain in part why claims approval times are long and why the backlog has increased. However, I believe we must do something to get veterans some assistance on the front end while they wait for the VA to make a determination. Just explaining the delay doesn't help our veterans pay the bills. We need to expedite benefits to help veterans get by while their claims are considered.

Currently, approximately 88 percent of veterans' claims are ultimately approved by the VA. This would suggest that the vast majority of claims filed by veterans are done so accurately and truthfully by men and women who are seeking compensation and benefits for very real conditions. I believe that our veterans have earned the benefit of the doubt when it comes to their claims on disability benefits.

Congressman Fred Upton and I introduced H.R. 1490 to provide veterans the benefit of the doubt when it comes to their claims. Based on an idea Professor Bilmes first put forth earlier this year, this bill would approve new disability claims up front through an expedited process, and direct the VA to audit a percentage of these claims to ensure accuracy and to deter and detect fraud. Those claims that have already been denied or are currently in the appeal process would not be included in this new process.

Essentially, a veteran who can provide proof of service and minimal supporting evidence for their claim would meet with a VA claims worker to identify the proper disability and benefit they are filing for. Unless the VA or the claims worker determines there is sufficient evidence to the contrary, the VA would approve the veteran's claim at a median benefit for that type of disability and the veteran would immediately become eligible for benefits.

Benefits awarded through this "benefit of the doubt" approach could be changed by the VA once a more appropriate level of benefits is determined. However, until that happens, veterans would still be able to get a benefit for a claim for which they are requesting. H.R. 1490 would direct the VA to ensure that an adequate number of claims workers are assigned to assist in carrying this out.

The burden of proof would be shifted from the disabled veteran to the VA. As Professor Bilmes has pointed out, a similar approach of approve and audit is successfully used by the IRS for tax returns and by the SEC for filings. There are already models in place.

By giving our veterans the benefit of the doubt up front and providing some kind of disability benefits at the beginning, we would also provide an incentive for the government to implement methods to reduce the wait time on processing the claims if it is the government bearing the cost of delay instead of the veteran.

Further, by approving more new claims up front, more VBA personnel could be freed up to work on reducing the current backlog of claims and appeals.

It is going to take a considerable amount of time to hire and train the number of new claims workers who will be needed to deal with the continued high rate of new claims as a result of returning veterans from OEF and OIF. However, by implementing a benefit of the doubt approach up front with veterans, we would get benefits to veterans much faster than we currently do.

We are aware that this is an unorthodox approach. However, it is an idea that I feel strongly deserves more consideration by this Subcommittee.

Mr. Chairman, I view H.R. 1490 as a starting point to allow Congress the opportunity to consider different approaches to expediting benefits for disabled veterans by giving them the benefit of the doubt. I know it is not a perfect proposal, but I look forward to continuing to work with this committee, the VA, and veterans service organizations to move this idea forward.

Thank you very much for this chance to address the Subcommittee on this very important subject, and I am pleased to answer any questions you may have.